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10/662,935	09/15/2003	Roland Lagasse	60,137-167; 009-3018-	2028

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CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

EXAMINER

FETSUGA, ROBERT M

ART UNIT PAPER NUMBER

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 10/662,935
Filing Date: September 15, 2003
Appellant(s): LAGASSE, ROLAND

MAILED
MAR 30 2006
Group 3700

Theodore W. Olds
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed January 25, 2006
appealing from the Office action mailed September 09, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is incorrect.

The amendment after final rejection filed on November 07, 2005 has not been entered per notification in the Advisory Action mailed November 16, 2005.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

WITHDRAWN REJECTIONS

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The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows: The following grounds of rejection are not presented for review on appeal because they have been withdrawn by the examiner. The rejection of claims 2 and 9 (sic, 1 and 9) under 112, second paragraph. Appellant states at page 3 of the brief the two different recitations are the same element.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2,472,030	Thulin	05/1949
2,024,930	Judell	12/1935
1,297,763	Wellington	03/1919
628,692	Campbell	07/1899
557,735	Warren	04/1896
56,284	Smith et al.	07/1866

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims (headings as provided by appellant):

B.

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Claims 13, 16, 1, 2 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thulin and Warren. The Thulin reference discloses a pivot connection comprising (terminology taken from broad claim 13): a pair of links 20,27 including an end wall having a cup 25, a threaded member 29, a cylindrical member 22, and a nut 30. Re claim 1, the pivot connection is a mount, and further comprises a showerhead 41 and a pivot joint/pivot joint connection portions 22,25. Therefore, Thulin teaches all claimed elements except for the threaded member being immovably fixed. Although the threaded member of the Thulin pivot connection is not immovably fixed, as claimed, attention is directed to the Warren reference which discloses an analogous pivot connection which further includes a threaded member 10 that is immovably fixed (with 8). Therefore, in consideration of Warren, it would have been obvious to one of ordinary skill in the pivot connection art to immovably fix the threaded member associated with the Thulin pivot connection in order to facilitate tightening of the connection. Furthermore, the threaded member of Warren includes a non-uniform outer periphery (Fig. 3).

C.

Claims 14 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thulin and Warren as applied to claims

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13 and 1 above, and further in view of Smith et al. The Thulin cup 25 includes a boss and ledge (Fig. 7), and the cylindrical member/pivot joint/pivot joint connection portion 22 includes a ledge (at 28). Therefore, Thulin and Warren teach all claimed elements except for the cylindrical member/pivot joint/pivot joint connection portion including a boss. Although the cylindrical member/pivot joint/pivot joint connection portion of the Thulin pivot connection does not include a boss, as claimed, attention is directed to the Smith et al. (Smith) reference which discloses an analogous pivot connection which further includes a cylindrical member/pivot joint/pivot joint connection portion B having a boss h. Therefore, in consideration of Smith, it would have been obvious to one of ordinary skill in the pivot connection art to associate a boss with the Thulin cylindrical member/pivot joint/pivot joint connection portion in order to facilitate securement.

D.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thulin and Warren as applied to claim 1 above, and further in view of Wellington. Although the nut of the Thulin pivot connection does not include a wing nut, as claimed, attention is directed to the Wellington reference which discloses an analogous pivot connection which further includes a

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wing nut 20. Therefore, in consideration of Wellington, it would have been obvious to one of ordinary skill in the pivot connection art to associate a wing nut with the Thulin pivot connection in order to facilitate manipulation.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thulin and Warren as applied to claim 1 above, and further in view of Campbell. The Thulin pivot connection further includes a cylindrical member seal 28. Although the Thulin pivot connection does not include a nut seal, as claimed, attention is directed to the Campbell reference which discloses an analogous pivot connection which further includes a nut seal D'. Therefore, in consideration of Campbell, it would have been obvious to one of ordinary skill in the pivot connection art to associate a nut seal with the Thulin pivot connection in order to prevent leakage.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thulin and Warren as applied to claim 1 above, and further in view of Judell '930. Although the Thulin mount/pivot connection does not include a third link and second pivot, as claimed, attention is directed to the Judell '930 (Judell) reference which discloses an analogous mount/pivot connection which further includes a third link 26 and second pivot 22 where the second pivot is substantially identical to a

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first pivot 22'. Therefore, in consideration of Judell, it would have been obvious to one of ordinary skill in the mount/pivot connection art to associate a third link and substantially identical second pivot with the Thulin mount/pivot connection in order to facilitate showerhead manipulation.

Claims 9, 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thulin and Warren as applied to claim 1 above, and further in view of Judell and Smith. The claims merely reiterate the above discussed subject matter.

(10) Response to Argument

B.

Appellant argues at page 4 of the brief Warren is non-analogous art to Thulin. The examiner can not agree as both Thulin and Warren teach acceptable methods of securing pivot joint connection portions together. Moreover, Warren teaches (Fig. 3) constructing a threaded member in one piece with a pivot joint connection portion. Clearly, this integral structure would prevent the threaded member from rotating during tightening.

C.

Appellant argues at pages 4-5 of the brief there is no reason why the shape disclosed by Smith should be incorporated into the Thulin connection. However, this argument appears to

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miss the point. Smith is cited as a teaching of adding a second boss to the structure already present in the Thulin pivot connection which includes two ledges and one boss (discussed supra). Indeed, Smith teaches a pivot connection having a pair of ledges and a pair of bosses. As appellant's argument does not address the actual grounds of rejection, such can not be considered persuasive.

D.

Appellant has not substantively argued these grounds of rejection beyond noting claim dependency. It is noted claims 3-5, 9, 10 and 12 are properly rejected on a combination of prior art disclosures including Thulin, Warren, Smith, Wellington, Campbell and Judell.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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For the above reasons, it is believed that the rejections should be sustained.

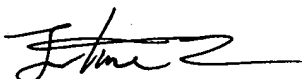
Respectfully submitted,


Robert M. Fetsuga

Conferees:

jry

jb 


JUSTINE R. YU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700